IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

WEDNESDAY, THE FIFTH DAY OF SEPTEMBER
TWO THOUSAND AND SEVEN

PRESENT

THE HON'BLE SRI JUSTICE C.Y.SOMAYAJULU

WRIT PETITION No.4663 OF 2002

Between:

Y.Narayana Reddy

.... PETITIONER

AND

The Superintendent of Prohibition
And Excise, Anantapur, and others.

....RESPONDENTS

THE HON'BLE SRI JUSTICE
C.Y.SOMAYAJULU

WRIT PETITION NO.4663 OF 2002

O R D E R

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Petitioner who is the owner of the lorry bearing No.AP 21T 2713 runs it on hire. While conducting route watch on High Way No.7 on 21.02.1996 at about 7.00 p.m., the Prohibition and Excise Inspector, Anantapur, seized the said lorry on the ground that its occupants were in possession of 69 Quarter bottles of Bagpiper Whisky. Those 69 quarter bottles of whisky and cash of Rs.20,000/- available with the driver of the lorry of the petitioner, which according to the petitioner, was the hire paid by the owner of the goods being transported in the lorry were also seized and that seizing was reported to the Deputy Commissioner of Prohibition and Excise, for initiating confiscation proceedings of the lorry. Petitioner filed an application before the Deputy Commissioner, Prohibition and Excise for release of his lorry, in which interim orders were passed on some conditions. Thereafter, a show cause notice was issued to the petitioner, to which the petitioner submitted his reply. Having been satisfied with the explanation of the petitioner, the Deputy Commissioner of Prohibition and Excise dropped the confiscation proceedings of the lorry through his proceedings dated 09.12.1996, but negatived the prayer of the petitioner for return of Rs.20,000/- seized from his driver and directed him to approach the Court for appropriate orders in that regard. So, the

petitioner filed this writ petition seeking return of Rs.20,000/- seized from his driver.

The case of the respondents is that inasmuch as the amount seized from the driver of the lorry of the petitioner was remitted to the Government, it is the Government that has to repay the amount to the petitioner.

A.P. Excise Act and Prohibition Act empower the officials to seize the liquor being transported along with receptacles, packages, coverings, animals, vessels, cars or other vehicles used to hold or carry the same. No provision, which empowers the Excise Officials to seize or confiscate the money found in possession of the driver of the vehicle is brought to my notice by the learned Government Pleader. So, seizure of the amount, in violation of the provisions of the A.P. Excise Act, A.P. Prohibition Act and the Rules made thereunder is highly irregular, if not high-handed. If the respondents remitted the cash to the Government, it is for them to take steps and get back the money from the Government and pay it to the petitioner. Petitioner who is found to be innocent cannot be driven from pillar to post for getting back the money unauthorisedly seized from the driver of his lorry.

Therefore, the writ petition is allowed with costs and the respondents are directed to return Rs.20,000/- to the petitioner with interest at 6% per annum from the date of seizure till the date of payment. Advocate fees is fixed at Rs.500/-.

JUSTICE C.Y.SOMAYAJULU

5th SEPTEMBER, 2007
PGS

THE HONOURABLE SRI JUSTICE
C.Y.SOMAYAJULU

W.P.NO.4663 OF 2002

5th SEPTEMBER, 2007